••• REMARKS/ARGUMENTS •••

The Official Action of June 9, 2003 has been thoroughly studied. Accordingly, the following remarks are believed to be sufficient to place the application into condition for allowance.

Claims 1-10 are pending in this application.

Claims 1-10 stand rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 5,244,716 to Thornton et al. in view of U.S. Patent No. 4,908,263 to Reed et al.

For the reasons set forth below, it is submitted that each of applicants' pending claims are allowable over the prior art of record and therefore, the outstanding rejection of the claims should properly be withdrawn.

Favorable reconsideration by the Examiner is earnestly solicited.

The Examiner has relied upon Thornton et al. as disclosing a discontinuously bonded material comprising an imperforate, water vapor permeable, liquid impermeable film layer such as a polyurethane and a fabric.

The Examiner states that the two layers are discontinuously bonded so that the fabric layer will be flat while the film layer is pleated into a plurality of parallel pleats.

The Examiner concedes that Thornton et al. differs from the claimed invention because Thornton et al. does not disclose that the fabric layer may be an elastomeric polymer, although Thornton et al. does teach employing thermoplastic polymers such as acrylic in the fabric layer.

The Examiner has relied upon Reed et al. as teaching nonwoven, elastomeric melt blown fabrics may be used to form a variety of garments including gloves.

The Examiner notes that Reed et al. teaches that such fabrics have improved elasticity and softness and also have improved launderability.

In combining the teachings of Thornton et al. and Reed et al. the Examiner takes the position that:

> It would have been obvious....to have employed melt blown elastomeric nonwoven fabrics such as those disclosed by Reed to form the fabric layer of Thornton. One of ordinary skill in the art would have been motivated to employ the meltblown elastomeric nonwoven of Reed because it is disclosed as having improved properties of softness, elasticity and flexibility which would have been desirable in the garments of Thornton et al.

Each of applicants' independent claims require, in part:

> a plurality of bulgy structural zones formed on a surface of the thermoplastic synthetic resin film that is opposed to said thermoplastic synthetic resin fibrous sheet, the plurality of bulgy structural zones extending in one direction in parallel and spaced apart from one another.

The Examiner has stated that Thornton et al. teaches that:

> ...the two layers are discontinuously bonded to that the fabric layer will be flat while the film layer is pleated into a plurality of parallel pleats.

It is assumed that this reliance of "a plurality of parallel pleats" in Thornton et al. is being read by the Examiner on applicants' claimed plurality of bulgy structural zones that extend in one direction in parallel and spaced apart from one another.

However, it is pointed out that, contrary to the Examiner's position and reliance upon Thornton et al., this reference does not teach a plurality of parallel pleats (that extend in one direction).

Thornton et al teaches that the "first material is corrugated, ruched or puckered or otherwise gathered" at column 4, line 56-58, *et seq.*

Applicants' claims, in addition to requiring a plurality of "bulgy structural zones extending in one direction in parallel and spaced apart from one another" also require "substantially flat zones defined between adjacent ones of the bulgy structural zones."

Figure 6 of Thornton et al illustrates "the puckered, ruched or corrugated configuration of the film or membrane" of Thornton et al.

As the Examiner will note from Fig. 6, the physical texture of Thornton et al. is completely random and there are no adjacent "pleats" that are parallel to one another as the Examiner purports. Moreover there are no "bulgy structural zones extending in one direction in parallel and spaced apart from one another" which are also "substantially flat zones defined between adjacent ones of the bulgy structural zones" as required by applicants' pending claims.

The word "pleat" is not even found in Thornton et al.

The Examiner is urged to compare Fig. 6 of Thornton et al. with applicants' Fig. 1.

The Examiner states that in Thornton et al. the "two layers are discontinuously bonded" together.

Applicants' claims require that the thermoplastic synthetic resin film is" welded along said bulgy structural zones to said thermoplastic synthetic resin fibrous sheet."

It is submitted that Thornton et al. only teaches that a "discontinuous adhesive is provided between the two layers and that two layers are adhered whilst the second layer at least is held in the stretched state."

This means that the "puckered, ruched or corrugated configuration" of the second layer (being stretched) would be absent so that the discontinuous adhesive would not provided welding along the "puckered, ruched or corrugated" structure.

Accordingly, Thornton et al. fails to teach several limitations of applicants' claimed invention.

The Examiner has relied upon Reed et al. as teaching nonwoven, elastomeric melt blown fabrics.

The fabrics of Reed et al. are nonwoven thermal insulating stretch fabrics as stated in the title.

Being thermal insulating stretch fabrics it is submitted that it is very doubtful that if the thermal insulating stretch fabrics of Reed et al. were incorporated into Thornton et al., the resulting composite would have the "the puckered, ruched or corrugated configuration" required by Thornton et al.

That is, the properties and particularly the thickness and bulkiness of the nonwoven thermal insulating stretch fabrics of Reed et al. would seem to preclude the formation of a puckered, ruched or corrugated structure.

In such a case, the modification proposed as obvious by the Examiner would be improper. Note:

> References cannot properly be combined if effect would destroy invention on which one of reference patents is based. *Ex parte Hartmann*, 186 USPQ 366 (PTO Bd App 1974)

Based upon the above distinctions between the prior art relied upon by the Examiner and the present invention, and the overall teachings of prior art, properly considered as a whole, it is respectfully submitted that the Examiner cannot rely upon the prior art as required under 35 U.S.C. §103 to establish a *prima facie* case of obviousness of applicants' claimed invention.

It is, therefore, submitted that any reliance upon prior art would be improper inasmuch as the prior art does not remotely anticipate, teach, suggest or render obvious the present invention.

It is submitted that the claims, as now amended, and the discussion contained herein clearly show that the claimed invention is novel and neither anticipated nor obvious over the teachings of the prior art and the outstanding rejection of the claims should hence be withdrawn.

Therefore, reconsideration and withdrawal of the outstanding rejection of the claims and an early allowance of the claims is believed to be in order.

It is believed that the above represents a complete response to the Official Action and reconsideration is requested.

If upon consideration of the above, the Examiner should feel that there remain outstanding issues in the present application that could be resolved; the Examiner is invited to contact applicants' patent counsel at the telephone number given below to discuss such issues.

To the extent necessary, a petition for an extension of time under 37 CFR §1.136 is hereby made. Please charge the fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account No. 12-2136 and please credit any excess fees to such deposit account.

Respectfully submitted,

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